



**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

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DIVISION OF ENFORCEMENT

April 16, 2019

VIA ECF

The Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: SEC v. Lek Securities Corp. et al., Case No. 17 CV 1789 (DLC)

Dear Judge Gorenstein:

We write on behalf of all parties in this case pursuant to Judge Cote's order of April 10, 2019 (ECF No. 356), in which Judge Cote orders that the parties "pursue settlement discussions" under your supervision.

There are two groups of defendants in this case: the Lek Defendants (Lek Securities Corporation and Samuel Lek), and the Avalon/Fayyer/Pustelnik Defendants (Avalon FA Ltd., Nathan Fayyer, and Sergey Pustelnik).

Some defendants believe that as with the previous round of settlement conferences with Your Honor (*see* ECF Nos. 198, 200, 201), separate settlement conferences for each of the defendant groups will be more productive. As such, the parties respectfully request that, if a conference is to be scheduled, the conference with the Lek Defendants be scheduled for **May 7, 2019 in the morning**, and the conference with the Avalon/Fayyer/Pustelnik Defendants be scheduled for **May 7, 2019 in the afternoon**. We contacted Your Honor's chambers on April 11, 2019, and were told Your Honor would be available at these times on May 7 to meet with the parties.

However, the SEC respectfully suggests an alternative approach instead of having an in-person settlement discussion with Your Honor at this time. The parties already have been through two rounds of in-person mediation with Your Honor, in which the parties were unable to reach agreement.¹ Of course, the SEC is prepared to fully participate in further in-person sessions if Your Honor so wishes. The SEC believes, however, that in order to conserve resources of the Court and the parties, a more efficient approach would be for the parties first to have informal discussions

¹ All of the parties and their counsel met with Your Honor on April 11, 2017. Plaintiff and the Lek Defendants (and their counsel) met with Your Honor on August 16, 2018. A subsequent session with plaintiff and the other defendants was set for August 30, 2018, but that session was cancelled because it was clear that a further session would not be productive.

among themselves, and then report back to Your Honor by a date certain on the results of those discussions, and to offer the parties' perspectives on whether further sessions with Your Honor (whether in-person or perhaps by telephone) would be productive. The SEC believes that this would comply with Judge Cote's April 10, 2019 Order (at 2), which directs that the parties "pursue settlement discussions under [Magistrate Judge Gorenstein's] supervision."

The Lek Defendants do not believe the SEC's proposed alternative approach was authorized by Judge Cote or would be useful. The parties have engaged in informal discussions among themselves regarding settlement on several occasions throughout the course of the litigation without success. Judge Cote plainly wants the parties to engage in a more formal settlement conference before Your Honor to see if settlement is possible before trial. The SEC provides no basis for deviating from Judge Cote's direction.

The parties are prepared to proceed as Your Honor directs.

Respectfully submitted,

/s/ David J. Gottesman
Deputy Chief Litigation Counsel
Division of Enforcement

cc (via ECF): All counsel of record